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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/786,494 06/26/2001		Theodore W. Reinhold	1883-00200	8736	
759	90 09/16/2002				
Marcella D Watkins			EXAMINER		
Conley Rose & Tayon PO Box 3267			HUSAR, JOHN		
Houston, TX 77253-3267			ART UNIT	PAPER NUMBER	
			3725		
		DATE MAIL ED: 09/16/2003	DATE MAILED: 09/16/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.  Offfice Action Summary  Define Action Summary						1
Examiner   John M. Huser   3725			Application	on No.	Applicant(s)	
John M. Husar   3725	•		09/786,49	14	REINHOLD, THEODORE W.	
The MAILING DATE of this communication appears on the cover sheet with the correspondence address = Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Exempions of time may be waiting date of this communication.  Exempions of time may be waiting date of this communication.  Exempions of time may be waiting date of this communication.  Exempions of time may be waiting date of this communication.  Exempions of time may be waiting date of this communication.  Exempions of time may be waited used the provision of 3 CFR 1.13(e). In no event, however, may a reply be timely filed after EX (8) MONTHS from the maining date of this communication of the provision of the pr	Office Action Summary		Examiner		Art Unit	
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Esterations of time may be available under the provisions of 37 CFR 1.38(a). In no event, however, may a noply be limitely filled.  Esterations of time may be available under the provisions of 37 CFR 1.38(a). In no event, however, may a noply be limitely filled.  Esterations of time may be available under the provisions of 37 CFR 1.38(a). In no event, however, may a noply be limitely filled.  Esterations of time may be available under the provisions of 37 CFR 1.38(a).  Esteration of time provisions of the second of the state of the state time of the state of the			John M. H	lusar	3725	
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THE MAILING DATE OF THIS COMMUNICATION.  Extransions of the may be available under the provisions of 37 CPR 1.136(s). In no event, however, may a reply be timely filed after SX (6) MONTIST from the mailing date of this communication.  If the peed of the reply specified above is last shan filing (20) days, and the considered timely.  If the peed of the reply specified above is last shan file (20) days, and the considered timely.  If the peed of the reply specified or reply within the set or extended period for reply will use the provision of the provision of the communication.  Falave to reply within the set or extended period for reply will use the provision of the policial period above the provision of the communication to become ABANDONEO (39 U.S. C, § 133).  Any reply received by the Office late than three mentiling date of this communication, even if timely filed, may reduce any example attent term adjustment. See 37 CFR 1.74(b).  Status  1)		• •	DIVICOTT	O EVRIRE 2 MON	TU(S) EDOM	
Status  1	THE - External after aft	MAILING DATE OF THIS COMMUNICATIO ensions of time may be available under the provisions of 37 CFF r SIX (6) MONTHS from the mailing date of this communication. e period for reply specified above is less than thirty (30) days, a O period for reply is specified above, the maximum statutory per ure to reply within the set or extended period for reply will, by stareply received by the Office later than three months after the maximum start.	N. R 1.136(a). In no eve . In reply within the staturiod will apply and will attempt the apply and will attempt the apply attempt.	ent, however, may a reply utory minimum of thirty (30 Il expire SIX (6) MONTHS ication to become ABANE	be timely filed  ) days will be considered timely, from the mailing date of this cor ONED (35 U.S.C. § 133).	nmunication.
2a)  This action is FINAL. 2b)  This action is non-final.  3   Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s)  1-31 is/are pending in the application.  4a) Of the above claim(s)  is/are withdrawn from consideration.  5   Claim(s)  1-3 and 20-30 is/are rejected.  7)  Claim(s)  1-3 and 20-30 is/are rejected.  7)  Claim(s)  1-3 and 20-30 is/are rejected to.  8)   Claim(s)  1-3 and 20-30 is/are rejected to.  8)   Claim(s)  1-49 and 31 is/are objected to to.  8)   Claim(s)  1-49 and 31 is/are objected to by the Examiner.  Application Papers  9)   The propers  9)   The drawing(s) filed on  is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11)   The proposed drawing correction filed on  is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12)   The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13)   Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)   All b)  Some * c)  None of:  1.   Certified copies of the priority documents have been received.  2.   Certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14)   Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) a)   The translation of the foreign language provisional application has been received.  15)   Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.	Status					
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Application/Control Number: 09/786,494

Art Unit: 3725

#### **DETAILED ACTION**

## Claim Objections

1. Claims 4-19 and 31 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

### Claim Rejections - 35 USC § 112

- 2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

  The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 20, it is not clear as to whether a method or apparatus is being claimed because it has been held that to be entitled to weight in method claims, the recited

Application/Control Number: 09/786,494

Art Unit: 3725

structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. Ex parte Pfeiffer, 1962 C.D. 408 (1961).

4. Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 26, lines 4 and 5, the phrase "the brake lever or other manual on/off control" is considered to be vague and indefinite claim language.

# Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 6. Claims 1-3,20-22 and 27-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Connolly et al.

Connelly et al discloses the invention as can be best understood in view of the 35 USC 112, second paragraph rejection set forth above.

Page 4

Application/Control Number: 09/786,494

Art Unit: 3725

### Claim Rejections - 35 USC § 103

- 7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 8. Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lechner in view of Burkett et al.

Lechner discloses the apparatus substantially as claimed. However, Lechner does not disclose the friction brake mechanism. Burkett et al teaches, in the analogous field of lawn and garden equipment, a friction brake mechanism [Fig. 3] for the purpose of causing the electric motor to slow quickly once electrical power has ceased.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to operate Lechner with a friction brake mechanism in order to slow the electric motor quickly once electrical power has ceased as taught by Burkett et al.

Application/Control Number: 09/786,494 Page 5

Art Unit: 3725

#### Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bold et al, Baker, Johnson, Tupper et al and Aasland et al are all being cited for showing similar comminuting mechanisms to that of the applicant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Husar whose telephone number is (703) 308-6178. The examiner can normally be reached on Mon.- Fri. during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Ostrager can be reached on (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Application/Control Number: 09/786,494

Art Unit: 3725

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

John M. Husar ' Primary Examiner

Art Unit 3725

JMH

September 10, 2002